

EXHIBIT 1

DEPOSITION OF ELLIOT F. PRATT
30(b) (6)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

Civil Action No. 3:21-MC-00074-FAB

UNITED STATES OF AMERICA, *
*
* Plaintiff, *
* vs. *
* KENDELL LANG, et al., *
* Defendants. *
*
FUSION PROPERTIES MANAGEMENT GROUP, *
INC., d/b/a FUSION FARMS, *
*
Garnishee. *
-----*

The 30(b) (6) remote Zoom deposition of FUSION PROPERTIES MANAGEMENT GROUP, INC., d/b/a FUSION FARMS, through its designated representative, ELIOT F. PRATT, called as a witness by the plaintiff, before Notary Public Saul Berrios, Esquire, and Dennis Zambataro, certified and Registered Professional Reporter, commencing at 9:01 o'clock a.m., on December 9, 2021.

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ELIOT PRATT

10 was called as a witness by the plaintiff,
11 having been first duly sworn, was examined and
12 testified as follows:

13 MR. DOYLE: Okay. So let's start
14 again.

15 EXAMINATION

16 BY MR. DOYLE:

17 Q. So, Mr. Pratt, you live on Front
18 Street in New York?

19 A. Yes.

20 Q. And you're one of the -- did you
21 state what your role is?

22 A. I said "acting director of finance."

23 Q. Acting director of finance.

24 How long have you been acting
25 director of finance?

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1 A. Since about six months.

2 Q. So that was in May?

3 A. Yes.

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4 Q. Okay. How many bank accounts does
5 the company have?

6 A. It has a bank account at Oriental
7 Bank, and I am working to form a new bank
8 account in New York City just because Oriental
9 is not a sophisticated bank.

10 Q. But this year so far, the only bank
11 account is at Oriental Bank?

12 A. There's also a bank account -- I
13 forget the other name of it -- but all of the
14 company's activities go through Oriental Bank.

15 Q. Well, when you say there's another
16 bank; what is that?

17 A. I would have to look it up. It's
18 another Puerto Rico bank.

19 Q. Does your company have an account
20 there.

21 A. Yes.

22 I'm sorry.

23 Q. No rush.

24 A. It has an account at First Bank.

25 Q. Did you find it?

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1 A. It's called First Bank.

2 Q. Oh, First Bank?

3 A. Yes.

4 Q. And that's a Puerto Rico bank?

5 A. Yes.

6 Q. Do you know what the balance is in
7 the accounts now, approximately?

8 A. Approximately between Oriental and
9 First Bank, the balance is approximately
10 600,000.

11 Q. Besides those two bank accounts,
12 does Fusion Farms have any other financial
13 assets?

14 A. No.

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Q. Sure. Okay.

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So Subject Matter Number 10; do you
know of any money that's gone to Lisa Jander or
Kendell Lang from the company for whatever
reason?

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A. To Kendell Lang, only the

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1 reimbursement of expenses.

2 And to Lisa Jander, she has been on
3 payroll in 2021 so she receives \$3,000 a month
4 as payroll.

5 Q. Okay. So is that the only money
6 that she receives from the company?

7 A. Yes.

8 Q. Reimbursements to Mr. Lang, did they
9 take place after the company was served with a
10 writ of garnishment?

11 A. I'm going to say no. The ones that
12 I'm aware of are in June -- well, the ones that
13 I'm aware of are in June.

14 Q. Yeah. Well, the garnishment was in
15 March; is that right?

16 A. Who are you asking?

17 Q. You.

18 A. The needs have occurred subsequent
19 to that.

20 Q. So besides reimbursements,
21 Kendell Lang received nothing from the company?

22 A. Correct.

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Q. All right. How about David

10 Friedland?

11 A. I know he is the trustee of
12 Roundtable and that he is successor to Michael
13 Anthony Francis in that role. I know that he's
14 85 and in very poor health. That's about all I
15 know about him.

16 Q. Do you know if -- is he an American
17 citizen?

18 A. I don't know. My understanding is
19 that he's a Bahamian citizen.

20 Q. Do you know what Mr. Friedland's
21 occupation is?

22 A. The answer is no, I don't know.
23 He's 85 so I -- I believe that he's retired from
24 any formal occupation.

25 Q. Okay. Do you know what his formal

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1 occupation may have been?

2 A. I apologize, I don't know.

3 Q. Have you talked to him?

4 A. No.

5 Q. How do you know about him?

6 A. I asked Mr. Lang about him and he
7 told me.

8 Q. Okay. Do you know what roles
9 Mr. Friedland has played in Fusion Farms over
10 the years?

11 A. I've never had interaction with him.
12 I know that he became the trustee only after the
13 death of Mr. Francis.

14 So my answer from personal knowledge
15 is that he has no interaction, no role in the
16 management of Fusion Farms.

17 Q. Do you know when Mr. Francis died?

18 A. In my notes, my notes say that
19 Friedland took over in July of '21, so I believe
20 that Mr. Francis died sometime shortly before
21 that.

22 Q. Subject Matter Number 14 is about
23 credit cards.

24 Did you look into that?

25 A. So there's one -- oh, I see that

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1 you -- you've cited it, yes.

2 So we looked into the payment of
3 \$5,303.51 and it was for the purchase and
4 installation of a refrigerated display case that
5 we have at the business location.

6 Q. And the credit card is in whose
7 name?

8 A. So USAA, I know, is Kendell's
9 personal card and so this was a direct
10 reimbursement for a purchase of a piece of
11 equipment that's used in the business.

12 Q. Right. It was paying debt to
13 Kendell Lang, right?

14 A. Yes.

15 Q. Do you know who made the decision to
16 pay him that?

17 A. Well, Anabelle, as president, would
18 make the decision to reimburse.

19 Q. Was he the president in June?

20 A. So he was still acting under his
21 contingent consulting agreement at that time.
22 So, yes.

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9 Q. So the Supplemental Answer to Joint
10 Exhibit 1, if you go -- staying in Exhibit 7 --

11 A. Yeah.

12 Q. -- it says:

13 "The company was essentially a paper
14 company or empty vessel which had no ongoing
15 operations during the first few years, had no
16 employees, no business operations, no investors, no
17 payroll and no bank account."

18 Is that entirely accurate?

19 A. Yes.

20 Q. So it did not have any investors?

21 A. Other than Roundtable.

22 Q. Well, no is none and Roundtable is
23 one.

24 So it did have an investor; is that
25 right?

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1 A. Yes.

2 Q. Okay. And what was it doing in
3 those years from 2016 going forward?

4 A. Again, speaking from my own
5 experience in the business, it's a complicated
6 engineering Feat to grow plants indoors from
7 physics and chemistry points of view.

8 So during those years, a prototype
9 was being explored; different techniques of
10 growing indoor plants were being explored; the
11 physics of moving water; the electricity
12 required to power LED lights; the understanding
13 of how this complicated piece of equipment would
14 be built and built successfully.

15 So there was much research and
16 experimentation around building an indoor farm.

17 Q. Now, where did you get that
18 information?

19 A. Well, I have asked Mr. Lang and Lisa
20 about the early days of the company and they
21 were working to determine the best --

22 Q. So there was a lot of
23 experimentation.

24 A. Yes.

25 Q. So it was not really a paper

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1 company, right? I mean, it was actually doing
2 a lot of, you know, preoperational work.

3 A. I --

4 Q. What's that?

5 A. I agree with your statement. It was
6 engaged in a lot of research and work on how
7 such a piece of equipment would be built.

8 Q. But it was not just some corporation
9 sitting on a shelf; there was active attempts to
10 get something up and running.

11 A. I don't disagree with your
12 statement.

13 Q. Okay. So this is going on for years
14 with Mr. Lang in charge of it and there was
15 nothing paid at all?

16 A. Correct.

17 Q. Do you know why?

18 A. I -- he has retired from an earlier
19 business, a currier, so I assume that he had at
20 least assets enough to not be destitute and he
21 was interested in building a sustainable
22 agriculture company.

23 And so while the company did not
24 have cash, he was not taking any salary and,
25 indeed, has stated his intention during those

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1 years not to take a salary; that he was more
2 interested in building this business.
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11 Q. Okay. So look at -- staying in
12 Exhibit Number 7, Supplemental Answer to
13 Interrogatories Number 8. Interrogatory No. 8
14 asks:

15 "Identify every financial account owned by
16 Fusion Farms for which Kendell Lang and/or Lisa
17 Jander has had access."

18 And this says that Oriental Bank --
19 Mr. Lang is no longer an authorized signer, but
20 that you and Anabelle Morales are; is that
21 accurate?

22 A. It's accurate to say that we have
23 been to Oriental Bank in order to become
24 signatories and because we're not residents of
25 Puerto Rico, they did not allow us to become

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1 signatories.

2 And that is why I am speaking to
3 Citibank in New York City to open a bank account
4 on behalf of the company so that the company has
5 an operating account that Anabelle and I can be
6 signatories of.

7 Q. Well, who has access to the money in
8 the account now?

9 A. Mr. Lang operates on the instruction
10 of Anabelle --

11 Q. So where it says "authorized
12 signatories do not include Mr. Lang or
13 Ms. Jander," he actually was in control of the
14 bank account.

15 A. I'm speaking to my knowledge that
16 I've been to Oriental trying to become a
17 signatory.

18 Q. They wouldn't let you be a
19 signatory?

20 A. Right.

21 Q. And that remains unchanged and
22 Mr. Lang can still write checks or make debits
23 from the account, right?

24 A. At the instruction of Anabelle.

25 Q. Well, will he be able to do it, if

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1 not legally, would he be able to do it without
2 her instruction?

3 A. I have to say yes.

4 Q. Okay. Now, does he actually make
5 payments on behalf of the company when she
6 directs him to?

7 A. Yes.

8 Q. Okay. So he's still actively
9 engaged in using the company's bank account.

10 A. Because Oriental Bank is --

11 Q. No, no, I'm not talking about --

12 MR. SANCHEZ: Let him finish,
13 Mr. Doyle. You're interrupting him. Let
14 him finish.

15 Go ahead, Mr. Pratt, finish your
16 answer: "Because Oriental," you were
17 saying?

18 THE WITNESS: I'm trying to make the
19 general point that Oriental Bank, because
20 it's -- because of its rather antiquated
21 policies are having difficulty getting
22 myself and Anabelle as signatories.

23 But that is the intention that I
24 have with Oriental bank to do that and
25 that Kendell, Mr. Lang, only executes

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1 orders from the bank to extend his order
2 to by Anabelle [verbatim].

3 BY MR. DOYLE:

4 Q. Do you know if she's in contact with
5 him on a regular basis?

6 A. Yes. His expertise is -- was used
7 during the building of the prototype and
8 determining the strategy of the company and --
9 and he is a valuable resource.

10 Q. Well, but not just a resource; he
11 actually has --

12 A. Until we fix this bank account
13 problem, yes.

14 Q. So how about First Bank? Is First
15 Bank -- do you have signing authority at First
16 Bank?

17 A. Not yet. Same answer.

18 Q. So Mr. Lang has access to a total of
19 about \$600,000 of Fusion Farm's money.

20 A. Yes.

21 Q. Okay. And the company doesn't --

22 A. I take it --

23 Q. -- is that right?

24 A. I'm just going to say yes because
25 you're technically accurate.

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1 Q. Okay. So going back to Exhibit
2 Number 7, the Answer to Interrogatory 8 where it
3 says "Oriental bank is the only account," that's
4 not accurate; it's also the First Bank -- the
5 account at First Bank; is that right?

6 A. Yes.

7 Q. Okay. Does the company have any
8 credit cards?

9 A. No.

10 Q. Does it have any other ways of
11 paying its bills?

12 A. It can write checks.

13 Q. Well, Mr. Lang can write checks,
14 right?

15 A. The company pays bills to its
16 vendors and employees.

17 Q. Right. Is that through the bank
18 account?

19 A. Yes. Oriental Bank.

20 Q. Okay. Does Roundtable pay expenses
21 associated with Fusion Farms directly?

22 A. No.

23 Q. Do any other persons or entities?

24 A. Only incidental expenses. You know,
25 speaking for myself, I -- when I fly to

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1 Puerto Rico, I'm reimbursed for that expense,
2 for example.

3 Q. Who reimburses you?

4 A. I ask Anabelle and she instructs
5 Mr. Lang to make a reimbursement.

6 Q. And how is that effected; is that
7 through a check or is that through an ACH or
8 what?

9 A. ACH.

10 Q. What loans has this company
11 received?

12 A. What loans?

13 Q. Yes.

14 A. So in my time, there have been no
15 loans. The investors are all direct equity
16 investors. I know that Mr. Lang has loaned the
17 money -- loaned the company money in the form of
18 expenses reimbursed -- expenses for equipment,
19 purchases of equipment.

20 So I'm only aware of relatively
21 small-dollar loans from Mr. Lang to the company
22 in connection with purchasing equipment and
23 building the farm.

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Q. As acting director of finance,

shouldn't you be aware of all outstanding loans?

A. Yes, sir, I should be.

Q. Okay. Are there other loans?

A. I'm aware of a loan made by Mr. Lang to the company relating to the purchase of equipment.

Q. How much was that?

A. On our balance sheet, it's about \$150,000; I don't know the exact number.

Q. Do you know when that occurred?

A. Prior to -- prior to my engagement with the company.

Q. Right, but --

A. So 2020?

Q. Are you guessing 2020?

A. I'm guessing 2020.

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1 Q. Okay. Is that -- is that
2 memorialized in a note?

3 A. It's an answer I should know, but I
4 don't know the answer, I've seen our balance
5 sheet.

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12 Q. If there were any paperwork
13 associated with the loan, where would that be?

14 A. With our bookkeeper, who is a local
15 CPA.

16 Q. Who is that?

17 A. Her name is Cynthia Rijo, R-I-J-O.

18 Q. What does Ms. Rijo do for you -- do
19 for the company?

20 A. Bookkeeping and preparation of
21 financial statements and tax filing and payroll
22 administration.

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1 Redacted

2 Q. So on page 6 of Exhibit 7,
3 Supplemental Response to Request Number 7.

4 Do you see that?

5 A. Page --

6 Q. Page 6?

7 A. Yes, I'm on page 6.

8 Q. And at the top, the response to --

9 Supplemental Response to Document Request 7.

10 Do you see it?

11 A. Yes.

12 Q. I just want to make sure, so the
13 last sentence says:

14 "The authorized signatories do not include
15 Mr. Lang or Ms. Jander."

16 But that's not accurate, right?

17 A. If I'm reading the same thing you
18 are reading, and as I answered previously, I
19 know it's the intent to make me and Anabelle the
20 signatories and remove Mr. Lang as signatory,
21 but --

22 Q. Not so far.

23 A. Well -- yes. I mean, I'm reading
24 the same thing you're reading and I previously
25 said that we're trying to do that, but it hasn't

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1 been done yet.

2 Q. Okay.

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7 MR. DOYLE: Let me turn your
8 attention to Exhibit Number 8.

9 [Exhibit 8 was marked for
10 identification.]

11 THE WITNESS: All right.

12 BY MR. DOYLE:

13 Q. So let me ask you to go through
14 these and let me know if these are the -- the
15 statements for the company from the Oriental
16 Bank account that we're talking about from
17 March 31 to September 30.

18 Can you just confirm that that's
19 what we've got here?

20 A [Witness reviews document.]

21 Yes.

22 Q. Okay. So where were the employee
23 salaries being paid? Where do they show up on
24 here?

25 A. So I'm not trying to be disingenuous

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1 or misleading, I don't know. They must be paid
2 from the First Bank bank account. You're asking
3 questions that I should know the answer to
4 and --

5 Q. Okay. But they are not showing up
6 here, right?

7 A. Right.

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6 Q. Yeah. So then there's a three --
7 the third one, April 5, is a payment to a
8 Barclay card -- US credit card.

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What is that?

10 A. That is a personal card of Kendell
11 and it's reimbursement for the purchase of
12 equipment.

13 Q. Okay. So that's -- you had talked
14 about the USAA card was also his?

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A. Yes.

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Q. So -- all right.

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So even though the writ of
18 garnishment had been served, Mr. Lang paid
19 himself back from the company?

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21 A. Yes. I've already said that the
22 company has reimbursed Mr. Lang for expenses
23 that he advanced on behalf of the company. It
did not include compensation or any --

24

Q. No, I understand. But I just want
25 to make sure that this is the -- this is the

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1 bank statement that shows some of these
2 reimbursements to him.

3 A. Yes.

4 Q. And he's making those decisions on
5 behalf of the company.

6 A. In April, yes.

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24 Q. All right. And so the May 10

25 Barclay card payment, that's, again, Mr. Lang's

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1 card?

2 A. Yes, same -- same answer.

3 Q. For May 13, there is Edward's Food
4 Market in Rincón.

5 Would that be for the company?

6 Would that be a personal expenditure?

7 A. It would be for the company.

8 Q. Why do you say that?

9 A. Because if Mr. Lang were using this
10 account to buy his personal groceries, it would
11 seem more -- we would be seeing more charges
12 than a single charge, in this case, for \$33.81.

13 Q. So you're just making that inference
14 based on the lack of other personal
15 expenditures?

16 A. I'm making that inference.

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22 Q. Okay. So on May 18, there's
23 another -- there's a \$1,900 payment to a credit
24 card of Mr. Lang; is that correct?

25 A. Yes.

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Q. Okay. The June 21, Venmo, do you

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1 know what that would be?

2 A. I'm afraid I don't know off the top
3 of my head what that is.

4 Q. So does the company ordinarily pay
5 its expenses through Venmo -- or any expenses?

6 A. From time to time, my guess is this
7 could be payment of the services to an
8 individual. I am sorry, I don't know this one
9 specifically.

10 Q. Okay. So you don't know. Okay.
11 That's fine.

12 And, again, the June 28 payment of
13 \$5,300, that's for Mr. Lang's credit card.

14 A. Yep, that's the one we already
15 discussed. That's specifically for the purchase
16 of a refrigerated display case.

17 Q. And the \$500 cash withdrawal on
18 June 29, do you know what that is?

19 A. No. I'm sorry.

20 Q. Okay.

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Q. Okay. In June -- I'm going to the

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June 30 to July 31 statement.

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A. Okay.

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Q. We have another Barclay card

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1 payment.

2 That's, again, Mr. Lang's; is that
3 correct?

4 A [Witness reviews document.]

5 Yes.

6 Q. And do you know what the July 14,
7 \$1,600 ACH payment is for?

8 A. Let me check my notes.

9 We were in July, right? July --

10 Q. Yes. Yes.

11 A. I'm afraid I -- that's not one of
12 the ones that I researched.

13 Q. Okay. And, again, we have a cash
14 withdrawal and -- and we have a Venmo payment.

15 So you don't really know what those
16 are about.

17 A. I don't know every transaction, I'm
18 sorry. And I agree that \$500 would be a lot of
19 money to me or just about anyone, but in the
20 scope of our corporate expenses, it's not a
21 large sum.

22 Q. No, I understand.

23 And then there's another Venmo
24 payment on July 30.

25 A. Same answer: I don't know the

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1 details with every one. These are consistent
2 with corporate expenses.

3 Q. Right.

4 A. I did ask if these were sent to
5 Mr. Lang and he said no.

6 Q. Oh, wait. You did ask if the Venmo
7 payments were to him?

8 A. I'll revise my answer. I asked if
9 any payments in any of these bank accounts, bank
10 statements were to Mr. Lang and he said no.

11 So I did not research those Venmo
12 payments specifically. Same answer as before,
13 but I asked broadly if there were any payments
14 here to Mr. Lang because I wanted him to tell me
15 specifically yes or no, and he said no.

16 Q. Even though he was getting the
17 credit card reimbursements?

18 A. Stipulating that those were specific
19 reimbursements.

20 Q. Right. But --

21 A. I'm sorry if I'm confusing the
22 issue.

23 I -- after identifying certain
24 specific reimbursements for specific purchases,
25 I asked him pointblank: Are any of these

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1 payments to you personally?

2 And the answer is no.

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16 Q. Okay. And then there's a --

17 August 18 -- I'm sorry.

18 August 19, there's a payment, again,
19 that's to --

20 A. Yes.

21 Q. -- Kendell Lang.

22 A. Well, reimbursement for an expense,
23 a corporate expense.

24 Q. Well, yeah, but the -- you know,
25 reimbursement to Kendell Lang?

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9 Q. Okay. On August 30, there's another
10 payment to the USAA credit card and that's for
11 Mr. Lang?

12 A. Yes, I see that. And the same
13 answer, and I will answer in advance: I don't
14 know specifically what that one was for.

15 Q. Sure.

16 Now, going to the August 31 to
17 September 30 statement.

18 A. Yes.

19 Q. And then on September 28, that's a
20 payment to Mr. Lang's card?

21 A. Same -- answer as before: Yes.

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